

From: [Casey, Carolyn](#)
To: [Wainberg, Daniel](#); [Zucker, Audrey](#); [Smith, Catherine](#); [Murphy, Jim](#)
Cc: [Lombardo, Ginny](#)
Subject: RE: Cummings Center
Date: Wednesday, November 29, 2017 8:24:00 AM
Attachments: [RE Former USM facility Beverly MA.msg](#)

Craig's response when I asked for a detailed schedule is attached.

GW sampling the week of 12/11 (unrelated to VI).

VI starting in Jan.

Not what I was looking for when I asked for a detailed schedule. This was the point I unsuccessfully tried to make on the call the other day. They did not notify me when they started "field work." The order calls for them to notify before starting "sampling activities." I think this will be a continuing problem where, if the language in the order is not perfect, they are going to be difficult and cut corners. It puts me in a position of anticipating what the next failure will be. I'll do my best but if there is something we can say to put them on notice about this that would be useful. I had hoped the order would help but I am not feeling that "good faith" so far.

The conditional approval was dated Oct 6.

I have not received anything iaw the following – should have been submitted

Para IX.17.g

*Respondents shall submit **revised schedules** for EPA approval. Upon EPA's approval, the revised Schedule(s) will supersede the attached schedule and any previously approved schedule and will be incorporated into and become an enforceable part of this Order.*

Para IX.17.g

Progress Reports: *In accordance with Section XIV (Reporting and Document Certification), commencing with the month following the Effective Date and throughout the period that this Order is effective, Respondents shall submit progress reports to EPA on a monthly basis, or as otherwise requested by EPA. The progress report must cover all activities that took place during the prior reporting period,*

No progress reports submitted but we were working on the WP/QAPP etc.

Also, do I need to do a final formal approval in writing if I already did a formal conditional approval in writing? I would not think so and assume an email would be sufficient (but also unnecessary) but Craig appears to be asking for one wrt to submittal of one revised page for the QAPP and a few figures.

Thanks

Carolyn

From: Wainberg, Daniel
Sent: Tuesday, November 28, 2017 9:07 PM
To: Zucker, Audrey ; Smith, Catherine ; Murphy, Jim
Cc: Casey, Carolyn ; Lombardo, Ginny
Subject: RE: Cummings Center
Adding Ginny to the conversation.
Dan Wainberg
RCRA Corrective Action Section
EPA - New England
Office: 617.918.1283

Mobile: 617.413.4622

Fax: 617.918.0283

Wainberg.Daniel@epa.gov

From: Zucker, Audrey

Sent: Tuesday, November 28, 2017 6:26 PM

To: Smith, Catherine ; Murphy, Jim

Cc: Casey, Carolyn ; Wainberg, Daniel

Subject: FW: Cummings Center

Please see below. Carolyn: I thought the sampling was going to take place in January? Please advise.

I will schedule a time to talk to Craig Z. on Friday and hear his concerns.

Audrey

From: Craig Ziady [<mailto:craig@cummings.com>]

Sent: Tuesday, November 28, 2017 6:15 PM

To: Zucker, Audrey <Zucker.Audrey@epa.gov>

Cc: Casey, Carolyn <Casey.Carolyn@epa.gov>; Wainberg, Daniel <Wainberg.Daniel@epa.gov>; Bruce Hoskins <BHoskins@FslAssociates.com>; Gregory Flaherty <gxf@cummings.com>

Subject: RE: Cummings Center

Hi Audrey – Thank you for your note. I understand that you are traveling, but we need to discuss this proposed course of action before it is implemented. Can we set up a time to speak with you about this when you return to the office on Friday?

From our perspective, the sampling results from 2012-2015 and the conclusions from those data do not support the (over)reaction that EPA is proposing at this time, particularly where the next sampling round, which is extensive, is scheduled to occur within the next two weeks (i.e., during the week of December 11). This sampling will yield a new set of data that we believe will confirm the conclusions in our prior four annual reports. Simply stated, we believe the aggressive outreach proposed on an urgent basis is premature and unnecessary at this time. We also have serious concerns about the irreversible effects of this (likely false) alarm, all of which can be avoided pending receipt of the new data.

Please let me know if you can be available for a brief discussion on Friday. We will make ourselves available at your convenience.

Thank you in advance.

Regards,

Craig

Craig J. Ziady

General Counsel

Cummings Properties, LLC

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From: Zucker, Audrey [<mailto:Zucker.Audrey@epa.gov>]

Sent: Monday, November 27, 2017 4:36 PM

To: Craig Ziady
Cc: Casey, Carolyn; Wainberg, Daniel
Subject: RE: Cummings Center

Craig:

I was unable to reach you by phone today. Because I'll be on travel from Tues to Thurs of this week, I decided to follow-up with this email.

Thank you for reaching out to each of the facilities below. However, given the responses you received, this is to request that you contact each of the four facilities listed in your email below, and specifically request that they distribute the Fact Sheet to parents. Should any of the facilities object to distributing the Fact Sheet to parents, please let us know right away.

In addition, please advise each facility of the exact date on which the VI sampling will be performed. Finally, please send me the following email confirmations:

1. By Monday, Dec. 4, 2017, confirmation that you have asked each facility to distribute copies of the Fact Sheet to each family that has a child in attendance at the facility.
2. By Tues. Dec. 12, 2017, confirmation that each facility has reported to you that it has in fact distributed copies of the Fact Sheet to each family, or, detailing any concerns the facility may raise.
3. By Dec. 31, 2017, provide copies of emails sent to each facility with notification of the date of the VI sampling.

Please let us know whether you would like EPA assistance or participation in any of the community outreach described above. Please also be reminded that the outreach described above does not preclude EPA from conducting its own outreach, as indicated in Paragraph 17.f. of the Consent Order.

If you have any questions, feel free to contact me. Although I'll be on travel from Tues through Thurs, I will have access to both voice mail and email. I'll be back in my office on Friday, Dec. 1.

Audrey

617-918-1788

From: Craig Ziady [<mailto:craig@cummings.com>]

Sent: Wednesday, November 15, 2017 4:49 PM

To: Zucker, Audrey <Zucker.Audrey@epa.gov>

Cc: Gregory Flaherty <gxf@cummings.com>; Bruce Hoskins <BHoskins@FslAssociates.com>; Steve Drohosky <sjd@cummings.com>

Subject: RE: Cummings Center

Hi Audrey – Further to your request below, this communication confirms that we followed up personally with the individuals listed below to inquire about the distribution of the Fact Sheets that were initially delivered last summer. In each instance, the individuals expressed that the Fact Sheets have not been distributed to parents.

Individuals/entities contacted:

Bright Horizons- Lisa LaPusata (Director);

Aspire Learning Center- Tiffaney Frongillo (Owner);

The Learning Zone- Melissa Ananias (Owner); and

Northeast Arc - Louann Larsen (Family Support Division Director).

Please let me know if you have any questions.

Thanks

Craig J. Ziady
General Counsel

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From: Zucker, Audrey [<mailto:Zucker.Audrey@epa.gov>]

Sent: Thursday, November 09, 2017 2:13 PM

To: Craig Ziady

Cc: Wainberg, Daniel; Casey, Carolyn

Subject: RE: Cummings Center

Craig:

In connection with EPA's outreach efforts, we have another question concerning the information you provided in your email below.

Can you please reach out to all four of the entities listed in your email below, and ask whether they have distributed the Fact Sheet to the parents of the students that attend these daycare/tutoring facilities. If you are unable to obtain this information, or would prefer EPA assistance, EPA intends to contact these entities to obtain further information about outreach efforts taken in response to the distribution of the Fact Sheet.

Can you please confirm by close of business 11/15 whether you have contacted each of the entities below to request this additional information, and get back to us again by close of business 11/17 to let us know whether you have received responses from any of the entities. Please forward to us copies of any correspondence or emails that you send to these entities in response to this email, and any responses that you receive.

Should you have any questions or concerns, please call me at 617-918-1788.

Audrey

From: Craig Ziady [<mailto:craig@cummings.com>]

Sent: Tuesday, October 10, 2017 4:09 PM

To: Zucker, Audrey <Zucker.Audrey@epa.gov>

Cc: Wainberg, Daniel <Wainberg.Daniel@epa.gov>; Casey, Carolyn <Casey.Carolyn@epa.gov>

Subject: RE: Cummings Center

Hi Audrey – Thanks for following up. The Fact Sheet was delivered to the following entities/individuals on July 11, 2017:

- Bright Horizons, 100 Cummings Center, (to Jessica Lessard, Assistant Director, by hand);
- Aspire Learning Center, 100 Cummings Center, (to Tiffaney Frongillo, owner, by hand);
- Learning Zone, 600 Cummings Center, (to Melissa Ananias, owner, via email, after telephone explanation); and
- Northeast Arc, 100 Cummings Center, (to Louann Larsen, Family Support Division Director, via email)

>We received only one response to these communications -- the email below from Northeast Arc on July 17, 2017:

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From: Louann Larson

Sent: Monday, July 17, 2017 8:31 AM

To: 'Joe Martin' <jxm@cummings.com>

Cc: Jo Ann Simons <JAS@ne-arc.org>; 'SMcCarthy@ne-arc.org' <SMcCarthy@ne-arc.org>

Subject: FW: Northeast Arc @ Cummings Center, Beverly

Thank you, Joe. We are looking forward to moving into the Cummings Center!

I wonder if you could share the results of the indoor air sampling conducted in 2012 and 2015? The fact sheet indicates that the tests happened but does not include the outcomes.

"Multiple rounds of indoor air sampling were conducted between September 2012 and August 2015 to assess indoor air quality in the buildings where children were present for school or day care. These indoor air samples were collected during summer and winter to evaluate the likely most conservative conditions."

Regards,

Louann



Family Support Division Director



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>As I was out of the country on vacation when we received Northeast Arc's request, the General Manager of our Cummings Center facility, Stephen J. Drohosky, and the project coordinator, Gregory Flaherty, attempted to track down the sampling results. A couple of weeks passed, and before we could respond, Ms. Larson reached out again for the information:

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From: Louann Larson [<mailto:LLarson@ne-arc.org>]

Sent: Monday, July 31, 2017 4:13 PM

To: Steve Drohosky

Cc: Joe Martin; Jo Ann Simons

Subject: FW: Northeast Arc @ Cummings Center, Beverly

Hi Stephen:

We received this e-mail and attached EPA info sheet from Joe on July 11. As I understand it, the info was shared with us based on the fact that there will be children present in the space we are leasing (158-D). I am hoping you can help us get the answer to the question I posed, below, highlighted in yellow.

Thank you for your help,

Louann



Family Support Division Director



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>Mr. Drohosky responded to Ms. Larson's email on August 2, 2017 (after I returned from vacation):

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From: Steve Drohosky

Sent: Wednesday, August 02, 2017 2:25 PM

To: Louann Larson; Jo Ann Simons

Cc: Joe Martin

Subject: RE: Northeast Arc @ Cummings Center, Beverly

Hi Louann,

We are sorry for our slow response. Upon receipt of your first email, we should have told you that the testing information, which is extensive, would be gathered and forwarded to us, and in turn, shared with you. As such, five emails will follow this email, including information from testing that occurred during the months of September, 2012; February 2013; February 2014; March 2015; and August 2015. While the analysis is extensive, each report does have a summary (see sections 4, 7 and/or 8 in each report), which might be the most applicable to your general question(s).

To answer the question in your last email, the information was shared with you because the areas in and around Northeast ARC's new premises at Suite 158-D were studied by EPA. At the outset of its inquiry, EPA focused on areas within the 100, 500 and 600 buildings where tenant firms were then operating a daycare or a school for children, and the area now leased by Northeast ARC was then occupied by Futures Behavior Therapy Center and Futures Clinic (which were part "daycare" and part "school").

As always, please contact Joe or me with any questions.

Best,

Steve

Stephen J. Drohosky | Vice President - General Manager | Cummings Properties - Beverly Division

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>That same day (August 2, 2017), Mr. Drohosky forwarded to Ms. Larson (Northeast Arc) in five separate emails the Air Sampling Status Reports from September 2012, February 2013, February 2014, March 2015, and August 2015.

Please let me know if you would like me to re-send to you the pdf attachments that we delivered to Northeast Arc on August 2, 2017.

Thanks,

Craig

Craig J. Ziady

General Counsel

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From: Zucker, Audrey [<mailto:Zucker.Audrey@epa.gov>]

Sent: Tuesday, October 10, 2017 2:55 PM

To: Craig Ziady

Cc: Wainberg, Daniel; Casey, Carolyn

Subject: Cummings Center

Craig:

I am writing to follow-up on our phone conversation in late September. In our call, you indicated that you would forward to me: (1) a list of the names and addresses of all parties to whom you provided a copy of the Fact Sheet, and (2) copies of emails you received from Northeast ARC in response to the Fact Sheet, and your reply to Northeast ARC. Would you please send along this information to me.

If you have any questions, please let me know. Also, if you have any further information about whether the Fact Sheet was distributed to others, please let me know that as well.

Thanks very much.

Audrey